IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7253 OF 1999

Shri S.D.Garud & ors ... Petitioners

versus

State of Maharashtra & anr ..Respondents

Mr.S.J.Rairkar for Petitioners

Mr.P.M.Patil, Assistant Government Pleader for for Respondent nos. 1 and 2.

CORAM : S.B.MHASE AND D.G.KARNIK, JJ

DATED : 8th February, 2006

P.C.

1. By this petition, the petitioners challenges the judgment and order dated 28th July, 1999 passed by the Division Bench of the Maharashtra Administrative Tribunal, Mumbai.

2. The petitioners were initially appointed as peons without following the proper procedure such as calling for the names from the Employment Exchange and other designated agencies and by issuance of a regular advertisement. The appointment of the petitioners were therefore irregular and their services were likely to be

terminated. However, by an order dated 11th May, 1994 the State Government regularised their services with effect from 11th May, 1994 as a special case. While making the regularisation the State Government decided that the regularisation would be effective from 11th May, 1994 and the petitioners would not be entitled to claim seniority or any benefits of their past service. An option was given to the petitioners to accept the employment on that condition. The petitioners exercised the option and continued in service. The petitioners have now claimed that they should be given the benefit of their past service and seniority. In our view, the petitioners after having accepted the regularisation on the basis of the offer made by the government cannot challenge the order of regularisation.

3. The initial appointment of the petitioners were itself irregular. Their services were therefore liable to be terminated. The State Government out of compassion and sympathy chose to regularise their appointments. It was open to the State Government not to regularise their appointments or to regularise their appointments subject to conditions. One of the conditions imposed by the State Government was that on regularisation the petitioners would not be

entitled to claim any benefits in respect of their past services. The petitioners accepted this condition and continued in service. In our view, the Maharashtra Administrative Tribunal committed no error in rejecting the claim of the petitioners. The order requires no interference.

4. Petition is accordingly dismissed. In the facts and circumstances of the case, parties shall bear and pay their own costs.

(D.G. KARNIK, J) **(S.B.MHASE, J)**